

REMARKS

Claims 1-9 and 11-16 are now pending in this application. Claims 1, 8, 12, and 15-16 are independent. Claims 1-3, 8, and 12 have been amended, claim 10 has been canceled, and claims 15-16 have been added by this Amendment.

No new matter is involved with any claim amendment, as support may be found throughout the originally-filed disclosure.

Anticipation Rejection by Fougnyes et al.

Withdrawal of the rejection of claims 1, 6-8 and 12 under 35 U.S.C. §102(e) as being anticipated by Fougnyes et al. (US 5,854,975) is requested.

Applicants note that anticipation requires the disclosure, in a prior art reference, of each and every limitation as set forth in the claims.¹ There must be no difference between the claimed invention and reference disclosure for an anticipation rejection under 35 U.S.C. §102.² To properly anticipate a claim, the reference must teach every element of the claim.³ “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference”.⁴ “The identical invention must be shown in as complete detail as is contained in the...claim.”⁵ In determining anticipation, no claim limitation may be ignored.⁶ In view of the foregoing authority, the cited reference at least fails to anticipate independent claims 1, 8, and 12, as amended.

Discussion of Applicants' Disclosure

By way of background, various embodiments and aspects of Applicant's disclosed and claimed invention are directed to a depositing method, arrangement, and network element that make the change of subscription type easy for telecommunications system subscribers using prepaid subscriptions. Information indicating the types of a last-used voucher type and a new

¹ *Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985).

² *Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 USPQ2d 1001 (Fed. Cir. 1991).

³ See MPEP § 2131.

⁴ *Verdegaal Bros. v. Union Oil Co. of Calif.*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

⁵ *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

⁶ *Pac-Tex, Inc. v. Amerace Corp.*, 14 USPQ2d 187 (Fed. Cir. 1990).

voucher type is maintained and used to detect a change of subscription type, and to select the proper way to update the credit to the subscriber's account.

Discussion of Fougnyes et al.

According to the Abstract, Fougnyes et al. ("Fougnyes") is purportedly directed to a prepaid cellular communication system having a security feature that allows only pre-authorized users to complete cellular telephone calls. The system and method is asserted as recognizing a cellular radio telephone's preprogrammed and pre-selected telephone number, and an automated number identification code (ANI). The pre-selected telephone number is reserved to the pre-paid cellular telecommunications system. The cellular radiotelephone transmits the ANI and a dialed number identification system code (DNIS) to a cellular switch, which contacts a host computer for call validation by the pre-paid service provider. This system is asserted as also allowing pre-authorized users to receive and pay for incoming calls as well as purchase additional airtime and monthly access fees with pre-paid cards.

However, Fougnyes fails to teach two different ways of updating the credit, the ways differing such that if the same value is used, a first way to update will give a first amount of updated credit, and a second way to update will give a second amount of updated credit, wherein the second amount is different than the first amount. Thus, Fougnyes fails to teach Applicants' claimed different ways of updating.

Further, the credit balance of Fougnyes is incapable of indicating the type of a voucher among voucher types having the same type of values (and thereby providing the same type of balance credits). Thus Fougnyes also fails to disclose Applicants' variously claimed maintenance of information, separate from credit information, that indicates the type of a last used voucher of the subscriber.

In the previous office action, the Examiner stated that Fougnyes teaches at col. 12:48-54, checking whether the last used voucher and the new voucher are of the same type. However, the cited portion of Fougnyes actually teaches how the card number of the new card is validated by checking whether or not the card number has already been used, and if it is found to have been used, to disconnect the call (i.e. not to update the credit).

As acknowledged by the Examiner, Fournies teaches that the account is credited according to the card type and value used in credit, thereby clearly teaching that only the type of the new voucher is taken into account, whereas in Applicants' disclosed and claimed invention, the voucher types of both last-used and new voucher are compared, and the comparison result is used when the updating technique is selected. More specifically, Fournies fails to teach at least a three last features of claim 1, and corresponding features in the remaining independent claims.

Accordingly, independent claims 1, 8, and 12 are submitted as being patentable over Fournies, as further discussed below.

Specific Deficiencies of the Applied Art

The applied art does not disclose a method for calculating a subscriber's account credit in a telecommunications system wherein the method includes, *inter alia*, "...***defining at least two different ways of updating the credit***, the different ways of updating differing from each other at least in the way the credit is calculated such that if the same value is used in updating, ***a first way to update will give a first amount of updated credit and a second way to update will give a second amount of updated credit***, the second amount being different than the first amount... ***determining the type of the last used voucher of the subscriber; comparing the type of the new voucher with the type of the last used voucher of the subscriber; and selecting the way of calculating the credit on the basis of a comparison result from said comparing***", as recited in independent claim 1, as amended (*emphasis added*).

Further, the applied art does not disclose an arrangement for updating a subscriber's account credit in a telecommunications system, wherein the arrangement is configured to, *inter alia*, "...***determine when the credit is updated the type of a last used voucher of the subscriber*** and the type of a new voucher which the subscriber is going to use to update said account credit; ***compare the type of the last used voucher with the type of the new voucher***; detect a change of voucher if the last used voucher and the new voucher are not of the same type; and ***in response to said detection, to apply a second method to update the credit, the second method differing from the first method at least in the way the credit is calculated such that if the same value is used in updating, the second method will give a different amount of updated credit than the first method***", as recited in independent claim 8, as amended (*emphasis added*).

Finally, the applied art does not disclose network element in a telecommunications system which includes, *inter alia*, "...a first mechanism to **determine the type of a voucher last used by the subscriber**, a second mechanism to **determine the type of the new voucher which the subscriber is going to use to update the subscriber's credit**, and a third mechanism to **compare the type of the voucher last used by the subscriber with the type of the new voucher**, and to select a method of updating the credit among at least two different updating methods on the basis of a comparison result...such that if the same value is used in updating, **a first way to update will give a first amount of updated credit and a second way to update will give a second amount of updated credit**, the second amount being different than the first amount", as recited in independent claim 12, as amended (*emphasis added*).

Accordingly, since the applied art does not teach or suggest all the claimed limitations, reconsideration and allowance of independent claims 1, 8, and 12 are respectfully requested. In addition, dependent claims 2-7, 9, 11, and 13-14 variously and ultimately depend from these allowable independent claims, and are submitted as being allowable at least on that basis, without further recourse to the patentable features recited therein.

Unpatentability Rejection over Fougnyes et al.

As can best be determined, claims 2-5, 9-11, and 13-14 appear to stand rejected as stated in the August 8, 2006 Non-Final Office Action under 35 U.S.C. §103(a), as allegedly being unpatentable over Fougnyes. Claim 10 has been canceled, thus rendering any rejection moot. As for the remaining claims, the Examiner has failed to make a *prima facie* case of unpatentability.

This assumption is based on the Examiner's contradictory assertion in the Final Office Action that "[c]laims 2-7, 9-11, 13, and 14 stand rejection as stated in the previous office action and stand or fall with their independent claims."

However, Applicants point out that claims 6-7 have been rejected twice in the Final Office Action, once as being anticipated by Fougnyes, and once as being unpatentable over Fougnyes. ***Clarification of the precise basis for rejection is requested in the next Office Action in this application if a Notice of Allowability is not forthcoming in response to this Amendment.***

Applicant notes that, to establish a *prima facie* case of obviousness, three basic criteria offer useful insights. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, ***the prior art reference must teach or suggest all the claim limitations.***⁷ Further, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.⁸ The Supreme Court recently held that it is necessary, *inter alia*, for a court to look to interrelated teachings of multiple patents in order to determine whether there was an apparent reason to combine the known elements in the claimed. In this regard, the Court held "[t]o facilitate review, this analysis should be made explicit."⁹ "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."¹⁰

As discussed above, Fougnyes does not teach or suggest all the limitations of independent claims 1, 8, and 12 from which claims 2-5, 9-11, and 13-14 variously and ultimately depend. Accordingly, allowance of these claims is requested.

New Claims

New independent claims 15-16 have been drafted to avoid the applied art and to further define that which Applicants are entitled to claim, using alternative claim language. Consideration and allowance of claims 15-16 are respectfully requested.

Conclusion

All rejections having been addressed, Applicant submits that each of pending claims 1-9 and 11-16 in the present application is in immediate condition for allowance. An early indication of the same would be appreciated.

⁷ See MPEP §2143.

⁸ *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) and See MPEP §2143.

⁹ *KSR Int'l. Co. v. Teleflex Inc.*, 550 U.S. ____ (2007) (see p. 14).

¹⁰ See *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

In the event the Examiner believes that an interview would be helpful in resolving any outstanding issues in this case, the Undersigned Attorney is available at the telephone number indicated below.

For any fees that are due, including fees for excess claims, RCE, and extensions of time, please charge Deposit Account Number 03-3975 from which the Undersigned Attorney is authorized to draw. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

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Respectfully submitted,

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